



## ESPC Best Practices from Life of Contract Field Reviews

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- Federal agencies are allowed by law to enter into Energy Savings Performance Contracts (ESPCs) with a term up to 25 years to pay for Energy Service Company (ESCO) financed improvements out of annual guaranteed savings. DOE FEMP has traditionally helped agencies by facilitating project development, award, construction, and acceptance, and review of the first annual Measurement and Verification report. FEMP has now established “Life of Contract” service functions to help agencies manage and administer ESPCs to attain enduring project performance and energy savings, for the full term of the contracts.
- FEMP Life of Contract service focuses on annual technical assistance phone calls to agencies at the time of the annual M&V reports and on more intensive site visit field reviews. The following ESPC Life of Contract recommended best practices result from lessons learned in the delivery of these services.

- Twenty Five Years is a Very Long Time and Change is Inevitable over This Period. Changes Will Occur in One or More of the Following Areas:
  - Key Personnel at the Agency and the ESCO
  - Building Occupancy and Uses
  - Building Structures – Alterations, Additions, Demolition
  - Installation of Measures
  - Operation of Measures
  - Maintenance of Measures
  - Technology Advancement
  - Unforeseen changes

- The Most Important Key Attributes of Successful Life of Contract Management and Performance are:
  - Early Planning for the Future
  - Successfully Managing Change
  - Following Best Practices

- Recognize from the start that one of the most important attributes to assure long term project performance is close engagement of the agency site and ESCO throughout.
  - Structure Project Terms so Measurement and Verification (M&V), Operations, Preventive Maintenance, and Repair/Replacement ensure close, regular Site/ESCO Interaction
- Anticipate Development of a Post Award Contract Management Plan
- Expect government personnel change – have a plan for succession
- Expect ESCO personnel changes – address the impact with the ESCO

- **Five Questions to Address Before Award**

1. What would have to occur for the ESCO to not meet the guaranteed savings in any year in the post-acceptance performance period?
2. If equipment is not performing properly due to inadequate operations, preventive maintenance, or repair/replacement on the part of the performing party (Agency or ESCO), what happens? How will performance and energy savings be restored?
3. What is the useful life of each ECM. Is it less than the term of the task order? If so is replacement during the task order post-acceptance performance period addressed?
4. Is there a reasonable expectation of some equipment performance degradation over its useful life? If so, is this addressed in the task order?
5. In any year of the post-acceptance performance period, how will the Federal agency and ESCO handle contract administration / management if the agency decides to:
  - a. Remove equipment
  - b. Remodel part or all of the building
  - c. Demolish or remove buildings from service
  - d. Replace equipment with similar equipment
  - e. Replace equipment with better technology

- Keep contract files up to date and ensure they reflect the actual site condition, operation, performance and disposition of the actual energy conservation measures
  - When changes do impact the project, take appropriate contract actions. Depending on the nature of the change, potential contract actions may include:
    - Documentation of the contract file.
    - Modification of the contract for:
      - Revising expected savings
      - Revising expected payments
      - Requiring one or more revised Delivery/Task Order Schedules
      - Partially terminating a project to remove costs, savings, and payments, including annual services payments
      - Making a payment for the partial termination
      - Fully terminating the project in accordance with cancellation conditions (Schedule DO/TO #5 of the DOE IDIQ)
      - Other

- Regard Project Acceptance as a top priority and devote adequate time and personnel. It is critical that any performance or other issues which might have arisen during construction are resolved before acceptance.
- Implement a Contract Management Plan to outline the method in which the government will administer the contract. It should identify the roles and responsibilities of government employees and who is responsible for specific contract administrative actions.
  - (A “DOE ESPC Life of Contract Plan” template is available from DOE FEMP at [http://www1.eere.energy.gov/femp/financing/espcs\\_resources.html](http://www1.eere.energy.gov/femp/financing/espcs_resources.html)).
- Mark project hardware and frequently remind all occupants and management of the project and alterations to hardware or control settings.
- Participate actively to ensure operations, preventive maintenance, and repair / replacement are performed, in accordance with the contract terms and agreed upon performing party.
- Participate actively in the annual phone calls from DOE FEMP at the time of the annual M&V process and report.

- Participate actively in M&V witnessing, report review, and approval to ensure guaranteed savings are met, in accordance with the contract terms and agreed upon methodology.
- Take Annual M&V meeting minutes to identify when and how long the ESCO is on site, which personnel were engaged with the ESCO, what measurements were verified, when and by whom
- See the FEMP website for a guide on M&V inspections for various technical levels.
- Ensure the M&V plan be included as an appendix to the annual M&V reports.
- Send modifications before award to the Golden Field Office to ensure that contact maximums are not exceeded and that the Task Order remains within the terms of the DOE IDIQ contract.

- Perform annual performance reviews throughout the life of contract and enter information into the Contractor Performance Assessment Reporting System (CPARS). CPARS is the federal wide system to collect and transmit performance evaluations into the Past Performance Information Retrieval system. (this is a regulatory requirement).
- Network and share lessons learned with other Agency sites to ensure that problem areas or issues are addressed in future projects for continuous improvement.
- Maintain ongoing communication with the ESCO.